

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

HILITE INTERNATIONAL, INC., )  
Plaintiff, )  
v. )  
BORGWARNER INC., and )  
BORGWARNER MORSE TEC INC., )  
Defendants. )  
Case No.: \_\_\_\_\_  
Jury Trial Requested

## **COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Hilite International, Inc., for its Complaint against BorgWarner Inc. and BorgWarner Morse TEC, Inc. (collectively "BorgWarner" where appropriate), hereby states as follows:

## THE PARTIES

1. Plaintiff Hilite International, Inc. ("Hilite") is a Delaware corporation having its principal place of business in Cleveland, Ohio.
2. Upon information and belief, Defendant BorgWarner, Inc. is a Delaware corporation having its principal place of business at 3850 Hamlin Road, Auburn Hills, Michigan 48326.
3. Upon information and belief, Defendant BorgWarner Morse TEC, Inc. is a wholly-owned subsidiary of BorgWarner, Inc. and is a Delaware corporation with its principal place of business at 800 Warren Road, Ithaca, New York 14850.

**JURISDICTION AND VENUE**

4. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et. seq.*

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c), and under 28 U.S.C. § 1400(b).

**PATENT INFRINGEMENT**

7. On April 3, 2001, the United States Patent and Trademark Office duly and legally issued United States Patent No. 6,209,497, entitled "Device For Changing The Relative Rotational Position Of A Shaft To The Drive Wheel" ("the '497 patent"). Hilite is the owner by assignment of all rights, title and interest in and to the '497 patent, including the right to recover for past and future damages from infringement.

8. The '497 patent is directed to a camphaser system that controls the relative rotational position of a camshaft to a driving wheel in an automotive engine. A true and correct copy of the '497 patent is attached as Exhibit 1.

9. BorgWarner has infringed, contributorily infringed, and/or induced infringement of the '497 patent by the making, having made, using, selling, and/or offering for sale within this judicial district and elsewhere, of products covered by the '497 patent. BorgWarner has sold components to engine or vehicle manufacturers for incorporation into engines or vehicle subsequently sold, imported, manufactured or offered for sale in the United States.

10. BorgWarner's infringement of the '497 patent, on information and belief, is willful, making this an exceptional case and justifying the assessment of treble damages pursuant to 35 U.S.C. § 284 and the award of attorneys fees pursuant to 35 U.S.C. § 285.

**RELIEF REQUESTED**

WHEREFORE, Plaintiff Hilite prays for judgment as follows:

- A. That BorgWarner has infringed the '497 patent;
- B. That BorgWarner's infringement of the '497 patent has been willful;
- C. That BorgWarner and its parents, subsidiaries, affiliates, successors, predecessors, assigns, and the officers, directors, agents, servants and employees of each of the foregoing, and those persons acting in concert or participation with any of them, are enjoined and restrained from continued infringement, including but not limited to using, making, importing, offering for sale and/or selling products that infringe, and from contributing to or inducing the infringement of the '497 patent;
- D. That BorgWarner and its parents, subsidiaries, affiliates, successors, predecessors, assigns, and the officers, directors, agents, servants and employees of each of the foregoing, and those persons acting in concert or participation with any of them deliver to Hilite all products that infringe the '497 patent for destruction at Hilite's option;
- E. That Hilite be awarded monetary relief adequate to compensate it for Defendants' acts of infringement of the '497 patent;
- F. That any monetary relief awarded to Hilite regarding the infringement of the '497 patent by BorgWarner be trebled due to the willful nature of BorgWarner's infringement;
- G. That this is an exceptional case and that Hilite be awarded the attorneys' fees, costs and expenses that it incurs prosecuting this action; and

H. That Hilite be awarded such other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff Hilite International, Inc. demands a trial by jury on all issues so triable.

POTTER ANDERSON & CORROON LLP

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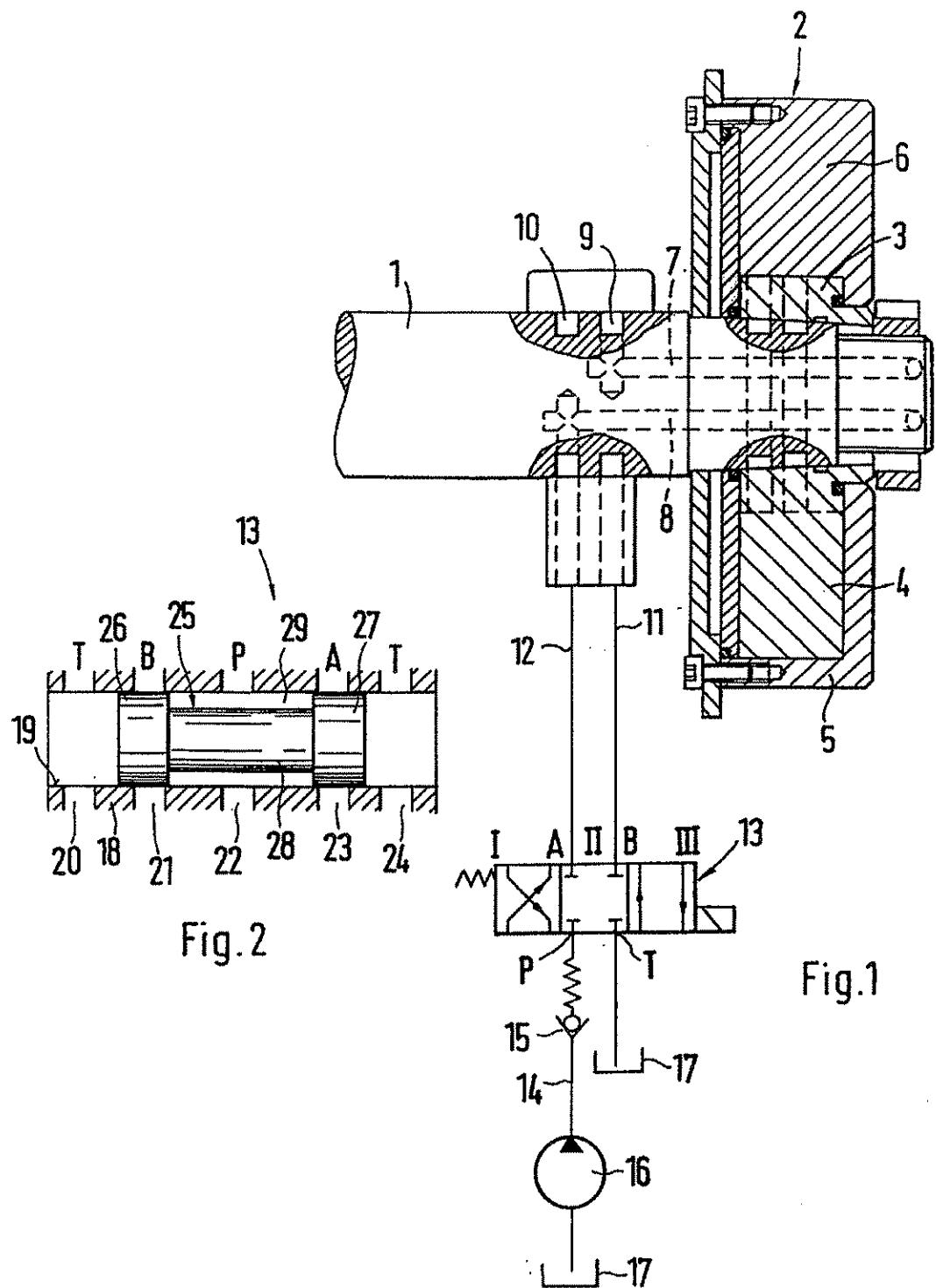
# **EXHIBIT 1**



**U.S. Patent**

Apr. 3, 2001

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**DEVICE FOR CHANGING THE RELATIVE ROTATIONAL POSITION OF A SHAFT TO THE DRIVE WHEEL**

**BACKGROUND AND SUMMARY OF THE INVENTION**

The invention relates to a system for the relative rotating position change of a shaft with respect to the driving wheel, particularly of a camshaft of an internal-combustion engine.

Such a system is known, for example, from International Patent Document WO 95/31633. This document describes a system for the rotating position change of the camshaft of an internal-combustion engine, in which the camshaft is non-rotatably connected with an internal geared wheel which has radial webs which divide assigned cells of a cell wheel into two pressure spaces respectively which operate against one another. By way of a chain drive or belt drive, this cell wheel is driven by the crankshaft of an internal-combustion engine. Pressure is admitted to the respective pressure spaces by way of a control valve which is constructed as a 4/3-way valve and by means of which the pressure spaces are connected as a function of the desired rotating position change with a pressure medium pump or a pressure medium tank. For this purpose, one pressure line respectively leads from this control valve to all pressure spaces acting in the same direction. Furthermore, one return valve respectively is arranged in these pressure lines which can be hydraulically unblocked and whose blocking effect can in each case be abolished by the pressure in the other pressure line. In the neutral position of the control valve, while neglecting the leakage losses, a hydraulic clamping can be achieved of the two components, which can be rotated relative to one another, by way of these return valves. However, such a system requires relatively high expenditures. Furthermore, during the adjusting operation, because of the almost unthrottled connection of one pressure space group with the pressure medium tank, unintended position deviations and inaccurate or fluctuating adjusting operations can occur.

In addition, from U.S. Pat. No. 4,858,572, a system is known for the rotating position change, in which an internal part is non-rotatably connected with the end of the camshaft and has on its exterior side several radial slots which are distributed along the circumference and in which wing elements are guided in a radially displaceable manner. This internal part is surrounded by a cell wheel which has several cells which can be acted upon hydraulically and which, by means of the wings, are divided into two pressure spaces which act against one another upon the latter. By admitting pressure to these pressure spaces, as a function of the pressure difference, the cell wheel can be rotated relative to the internal part and thus relative to the camshaft. Furthermore, one piston respectively, which can be acted upon hydraulically, is guided in the cell wheel in two radial bores in defined angular positions, which piston can be pushed into a radial indentation of the internal part in the assigned end position of the system. By means of pressure spring elements, these pistons are acted upon in the direction of the internal part and can be displaced in the opposite direction by the hydraulic action upon the bores in the internal ring. By means of these spring-loaded pistons, the system is to be locked in one of its two end positions as long as the pressure for acting upon the pressure spaces does not reach a defined level. Only when a defined pressure level is reached, will the pistons be pushed back against the effect of the pressure springs and will permit a rotating of the internal part relative to the cell wheel. By means of such a system,

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rattling noises, among others, are to be avoided when the internal-combustion engine is started, which rattling noises may occur as the result of changing torque loads during the start and the operation of the internal-combustion engine.

5 In contrast, the invention is based on the object of improving the system of the above-mentioned type for the relative rotating position change of a shaft with respect to the driving wheel such that it is constructed in a simpler manner and at more reasonable cost and permits a rotating position change which is free of fluctuations. The main object is the avoidance of the use of several high-expenditure high-cost control valves.

Furthermore, when the internal-combustion engine is stopped and in the steady-state operation of the system, a 10 simply operating hydraulic locking is to be permitted.

According to the invention, this object is achieved by providing a system for the relative rotating position change of a shaft with respect to the driving wheel, particularly of a camshaft of an internal-combustion engine, having an 15 adjusting arrangement with two pressure spaces acting against one another, having a pressure medium pump, a pressure medium tank and at least one control valve, during the adjusting operation, one pressure space being connected with the pressure medium pump and the other pressure space being connected with the pressure medium tank, characterized in that, at the start of an adjusting operation, one pressure space is connected with the pressure medium pump before the other pressure space is connected with the pressure medium tank.

20 Because of the fact that, when the adjusting operation is initiated, one pressure space is connected with the pressure medium pump, before the other pressure space, which operates in the opposite direction, is connected with the pressure medium tank, it is prevented that the pressure drop on the side to be relieved takes place faster than the pressure rise on the opposite side. This results in a damping or 25 throttling of the outflow side by means of which an adjustment is prevented which is in advance of the pressure rise. The adjusting operation thereby becomes damped and more precise. Such a control of the pressure admission and 30 pressure relief permits the avoidance of high-expenditure damping devices and allows in a simple manner a controlled regulating or a controlled conversion of the adjusting movement as the result of the pressure control.

35 A damping or throttling on the outflow side, which functions during the whole adjusting operation, is achieved in that the control cross-section to the pressure medium tank during the adjusting operation is always smaller than the opening cross-section to the pressure medium pump. As a 40 result, during the whole adjusting operation, an advancing before the pressure rise is prevented so that a very precise 45 position assignment and a largely fluctuation-free adjustment is possible during the whole adjusting operation.

50 A particularly advantageous construction of the system for the relative rotating position change which is reasonable in cost is obtained if the inflow control as well as the outflow control for the assigned rotating direction is controlled by way of a common valve element of the control valve.

55 Such a system for the relative rotating position change will be even more simplified and lower in cost if a common control valve and a common valve element are utilized for both directions of the rotating position change.

60 In this case, the control valve may be constructed in a 65 particularly advantageous manner as a 4/3-way valve, the valve element acting for the inflow and outflow control for both rotating direction being constructed as a valve slide.

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Additional advantages and advantageous further developments of the invention are found in the description.

An embodiment of the invention will be explained in detail in the following description and drawing.

#### BRIEF DESCRIPTION OF THE DRAWINGS

FIG. 1 is a schematic representation of the pressure medium supply for a phase-variable camshaft drive; and

FIG. 2 is a schematic representation of the control valve.

#### DETAILED DESCRIPTION OF THE DRAWINGS

In the drawing, reference number 1 indicates the camshaft of an internal-combustion engine, on which, on the end side, a system for the hydraulic rotating angle adjustment of the camshaft relative to its driving wheel or to the crankshaft is arranged, which is known, for example, from German Patent Document DE 39 37 644 A1. This adjusting system 2 has an internal part 3 which is non-rotatably connected with the camshaft and which is provided with radial webs 4. These webs 4 divide the cells of a cell wheel 5 bounded by radial webs 6 into two pressure spaces respectively which act in opposite directions. The cell wheel 5 is simultaneously a driving wheel and is connected, for example, by means of a chain drive or belt drive with the crankshaft of the internal-combustion engine. By the corresponding admission of pressure to the pressure spaces, the internal part 3 connected with the camshaft 1 can be rotated relative to the cell wheel 5 so that the phase positions of the cams operating the charge cycle valves will change.

The hydraulic control of the pressure spaces takes place by two pressure ducts 7 and 8 which are constructed separately from one another in the camshaft and which are connected by way of two ring grooves 9 and 10 constructed in a camshaft bearing 9 with one control line 11 and 12 respectively. The two control lines 11 and 12 are connected with a control valve 13 which, in this embodiment, is constructed as a 4/3-way valve. The connection of the control valve 13 to the control line 11 is marked A; the connection to the control line 12 is marked B. The control valve 13 has a pressure connection P and a return flow connection T. By way of a pressure line 14 and a return valve 15, the pressure connection P is connected with the lubricant pump 16 of the internal-combustion engine which is used as a pressure medium source. This lubricant pump 16, in turn, is connected by way of a suction line with the oil tank 17 or the oil pan of the internal-combustion engine. The return flow connection T of the control valve 13 is also connected with this oil tank 17.

In the neutral position II of the control valve 13, the pressure line 14 as well as the return flow connection T and the two control lines 11 and 12 are closed on the valve side. In switching position I of the control valve 13, the pressure line 14 is connected with the control line (P→B). The control line 12, in turn, is connected by way of the return flow connection T with the oil tank 17 (A→T). In switching position III of the control valve 13, the pressure line 14 is connected with the control line 12 (P→A), while the control line 11 to the oil tank 17 is opened up (B→T). Because of the pressure differences existing in the respective connected pressure spaces, a rotation of the internal part relative to the cell wheel takes place in both switching positions I and III of the control valve 13. For example, in switching position I, a clockwise rotation of the internal part takes place relative to the cell wheel, while in switching position III, the relative rotation takes place counterclockwise. In the neutral position II, the relative position of the two rotatable components of the adjusting system is maintained or fixed by the hydraulic clamping.

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The control valve 13 constructed as a 4/3 proportional way valve has a valve housing 15 with a valve bore 19 which is surrounded by five mutually spaced ring grooves. In the arrangement illustrated in FIG. 2, these five ring grooves have the reference numbers 20 to 24 extending continuously from the left to the right. In this case, the ring grooves 20 and 24 are connected in a manner known per se with the return flow connection T. The ring groove 21 is connected with the pressure connection B, while the ring groove 23 is connected with the pressure connection A. The central ring groove 22 is connected with the pressure connection P. A valve element 25, which is constructed as a control piston, is guided in a sealing and longitudinally displaceable manner in the valve bore 19. This valve element 25 has two spaced piston sections 26 and 27 which are sealingly guided in the valve bore 19 and which are connected with one another by way of a piston section 28 of a smaller diameter. The two piston sections 26 and 27 close off the annulus 29 constructed between the piston section 25 and the wall of the valve bore 19. The length of the piston section 25 and the length of the piston sections 26 and 27 are adapted such to the width and the spacing of the ring grooves 20 to 24 that the ring grooves 21 and 23 are tightly closed by the piston section 26 and 27 in the neutral position II of the control valve 13. The distance between the two mutually facing front sides of the piston sections 26 and 27 is smaller by an amount required for the secure sealing than the distance between the mutually facing sides of the ring grooves 21 and 23. The length of the piston sections 26 and 27 is selected such that the covering of the ring grooves 21 and 23 on the front side facing away from the pressure connection P is clearly larger. If the valve element 25 is displaced from the neutral position II illustrated in FIG. 2, for example, toward the right into the switching position I, the area of the ring groove 23 facing the pressure connection P is no longer covered or is opened up by the piston section 27. On the opposite side, the ring groove 21 is still completely covered by the piston section 26 as the result of the larger covering. Thus, at the start of the adjusting operation, the pressure space assigned to the pressure connection B can therefore be acted upon without relieving the opposite pressure space assigned to the pressure connection A. Only when the valve element 25 is displaced further toward the right, the ring groove 21 is also no longer covered by the piston section 26 on the side facing the ring groove 20 and is opened up by this piston section 26 so that the connection A is opened toward T. The dimensions and spacings of the ring grooves are coordinated such with the dimensioning of the valve element that the opening cross-section—when the valve element is displaced toward the right—on the ring groove 23 is always larger than on the ring groove 21 (outflow edge control). If the valve element 25 is analogously displaced from the neutral position II toward the left into the switching position III, the side of the ring groove 21 facing the pressure connection P is no longer covered by the piston section 26. On the other hand, because of the larger covering, the piston section 27 still completely covers the ring groove 23. Only when the valve element 25 is displaced further toward the left, the ring groove 23 is analogously no longer covered on the side facing the ring groove 24. Also here, the opening cross-section of the ring groove 21—during a displacement of the valve element 25 toward the left—is always larger than that on the ring groove 23.

What is claimed is:

1. A system for the relative rotating position change of a camshaft with respect to a driving wheel of an internal-combustion engine, having an adjusting arrangement with

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two pressure spaces acting against one another, having a pressure medium pump, a pressure medium tank and at least one control valve, during the adjusting operation, one pressure space being connected with the pressure medium pump and the other pressure space being connected with the pressure medium tank, characterized in that, at the start of an adjusting operation, one pressure space is connected with the pressure medium pump before the other pressure space is connected with the pressure medium tank.

2. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 1, characterized in that the control cross-section of the connection of one pressure space to the pressure medium tank during the adjusting operation is always smaller than the opening cross-section of the connection of the other pressure space to the pressure medium pump.

3. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 1, characterized in that the control cross-section of the connection of one pressure space to the pressure medium tank and the control cross-section of the connection of the other pressure space to the pressure medium pump is controlled by a common valve element of the control valve.

4. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 3, characterized in that the common valve element of a control valve is utilized for both directions of the rotating position change.

5. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 1, characterized in that the control valve is constructed as a 4/3 proportional way valve.

6. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 2, characterized in that the control cross-section of the connection of one pressure space to the pressure medium tank and the control cross-section of the connection of the other pressure space to the pressure medium pump is controlled by a common valve element of the control valve.

7. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 6, characterized in that a common valve element of a control valve is utilized for both directions of the rotating position change.

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8. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 2, characterized in that the control valve is constructed as a 4/3 proportional way valve.

9. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 3, characterized in that the control valve is constructed as a 4/3 proportional way valve.

10. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 4, characterized in that the control valve is constructed as a 4/3 proportional way valve.

11. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 5, characterized in that the control valve is constructed as a 4/3 proportional way valve.

12. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 6, characterized in that the control valve is constructed as a 4/3 proportional way valve.

13. The system for the relative rotating position change of a shaft with respect to the driving wheel according to claim 7, characterized in that the control valve is constructed as a 4/3 proportional way valve.

14. A camshaft rotational position adjusting system comprising:

two pressure spaces acting against one another,  
a pressure medium pump connected with one of the pressure spaces  
a pressure medium tank connected with the other of the pressure spaces, and  
a control arrangement operable during an adjusting to connect the one pressure space with the pressure medium pump before the other pressure space is connected with the pressure medium tank.

15. A system according to claim 14, characterized in that the control cross-section of the connection of one pressure space to the pressure medium tank during the adjusting operation is always smaller than the opening cross-section of the connection of the other pressure space to the pressure medium pump.

\* \* \* \* \*

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

HILITE INTERNATIONAL, INC.

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

BORGWARNER INC. and BORGWARNER MORSE TEC

County of Residence of First Listed Defendant \_\_\_\_\_  
INC.  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Philip A. Rovner, Esq., Potter Anderson & Corroon LLP  
P.O. Box 951, Wilmington, DE 19899 (302) 984-6100

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

Citizen of This State	<input type="checkbox"/> PTF 1	<input type="checkbox"/> DEF 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF 4	<input type="checkbox"/> DEF 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FOREIGN TRADE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>REAL PROPERTY</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAXES/HTS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)
 

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
patent laws of the United States, 35 U.S.C. Section 1, et seq.Brief description of cause:  
suit for patent infringement

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

Sue L. Robinson

DOCKET NUMBER C.A. 05-48

DATE

SIGNATURE OF ATTORNEY OF RECORD

5-16-08

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 2-08-287

**ACKNOWLEDGMENT**  
**OF RECEIPT FOR AO FORM 85**

**NOTICE OF AVAILABILITY OF A**  
**UNITED STATES MAGISTRATE JUDGE**  
**TO EXERCISE JURISDICTION**

I HEREBY ACKNOWLEDGE RECEIPT OF 3 COPIES OF AO FORM 85.

5/16/08

(Date forms issued)



(Signature of Party or their Representative)

Matthew D. Gordon

(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action